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Towards a Better Understanding of Latin America

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INTRODUCTORY COMMENTS

Towards a Better Understanding of Latin America

*by Dr. Tatiana B. de Maekelt**

I WAS PROMPTED to accept the kind request to present some introductory comments to this issue on Latin America because it has been my firm conviction that there is a need to promote and encourage the dissemination of knowledge on law in the Americas. I felt certain that the subject matter of this issue would contribute to the understanding of the fundamental aspects of inter-American legal problems, to interpreting clearly the legal implications of the regional and subregional integration process, and, finally, to increasing the understanding of new situations facing the Western Hemisphere.

The nature of a prologue constrains one to offer only a general overview in introducing the topics of this issue. I believe, however, that it is opportune to refer to some peculiarities present in the new Latin American scene.

The profound changes that our hemisphere has undergone on the political-economic level present a clear framework for explaining the developments of recent years. Economic factors such as petroleum and the birth of the Andean Group have led to the more active presence of Venezuela and Mexico in the economic and political control of Latin America which has heretofore been headed by Argentina and Brazil. Similarly, Central America has been striving for subregional cohesion which would permit it to detach itself economically in accordance with its growth potential. In addition, the absence of socioeconomic homogeneity, on the one hand, and ideological heterogeneity, on the other, are two aspects that have lent a very special character to the region.

The circumstances indicated above have had a strong influence in the search for solutions in the economic sphere while disregarding an approach to problems from a necessarily legal perspective. Nevertheless, this complex mixture of forces, changes of zones of influence, and their

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connotations and consequences reveal the need for a serious technical-legal analysis of the formal structure of the relations mentioned. Because of this, it has been noted in recent years that if the objective was to obtain better possibilities for development and to enter the international capital market, it was necessary to establish an appropriate legal framework to accompany and support the process. The search for solutions in the international order presumes the creation of flexible structures capable of supporting the dynamic development of events. For this reason, it is imperative for the American region to make known its historical, traditional and very respectable process of codification. This is the way to have a controlling force with which to channel the new and increasingly complex economic, political and social situations.

The Organization of American States (OAS), as the most important historical product of the political, cultural and social development of the times, has been a channel for inter-American relations and has worked intensively in studying the vast and complex legal problems facing the American Scene. The problems presented by the process of decolonization, the insufficient regulation of international contracts, sales and transportation, the lack of approval of a code of conduct for transnational enterprises, patents and industrial property, the international transfer of technology, and, in general, the updating of norms of private international law, the new law of the sea, terrorism and the taking of hostages, the principle of nonintervention and concepts such as the peaceful settlement of disputes—all of these are topics that have been dealt with in conferences, seminars and assemblies sponsored or convoked by the OAS on the inter-American level.

The OAS, as the oldest political-legal organization in the hemisphere, is in the best position to gradually exert its influence in designing a legal framework suitable to present needs. Furthermore, from this regional forum, America can continue the development of the various topics of importance at the multiple levels at which they may be considered with a feeling of unity and collective action. In order to do this, it would also be necessary to rely on the assistance of specialists who, from their university posts, would cooperate in the training and continuing education of new American lawyers or perform research to aid in resolving matters of international law, as well as experts who would contribute to the dissemination of legal thought in the Americas at meetings or through publications such as the *Case Western Reserve Journal of International Law*.